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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/472,900	12/28/1999	KAZUE SAKO	059729/0111	9353

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/472,900	SAKO, KAZUE
	Examiner	Art Unit
	Michael J Fisher	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 2/7/03.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Franklin et al. (Franklin).

Franklin discloses a method for placing a bid comprising the bidder determining a bid price (col 8, lines 47-53), obtaining a code parameter corresponding to the bid price (col 10, lines 40-47), this parameter would inherently be predetermined as the parameter corresponds to a particular bid, encoding the bid with the code parameter and transmitting the encoded bid to a bid-receiving system (S).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin.

Franklin discloses an electronic tender system comprising bidder sub-systems (B), including a code parameter acquisition section for receiving a bid and for acquiring a code parameter corresponding to the bid, this parameter would inherently be predetermined as it corresponds to a bid, a code processing section for using the code parameter to encode the bid and a transmission section for sending the bid to a tender opening sub-system (see col 2, line 61-col 3, line 49, and further, col 8, lines 47-53 and further, claims 1 and 5), and a tender opening sub-system (S), including a reception section for receiving messages from the bidder sub-systems until a closing time, a candidate price selection section (col 9, lines 3-52), a decode parameter acquisition section and a determination section for decoding encoded bids (see col 10, line 52-col 11, line 15 and further, claim 10).

As to claims 3 and 4, public and private keys are disclosed (see col 4, lines 19-38 and claim 14).

As to claims 5-8, an announcement section is disclosed (see col 9, line 53-col 10, line 2).

Response to Arguments

Applicant's arguments filed 2/7/03 have been fully considered but they are not persuasive. As is discussed above, the code would inherently be predetermined to correspond to a particular bid else the system would continuously need input to determine exactly how to code the bid. As to arguments that in the instant application the code corresponds to a bid and not a bidder, it would appear to the examiner to be the same thing as the bid corresponds to the bidder and thus, the code would correspond to both the bid and the bidder. As to arguments that the instant application is different in that it only discloses the winning bid, applicant is directed to col 10, lines 3-4 of Franklin wherein Franklin discloses erasing losing bids and the information related to it, this would appear to correspond to the instant application. As to arguments that equal bids would be coded differently, while Franklin does not specify this it appears that the applicant does not either. Specifically, the differing bids would, of necessity, be coded differently as they are related to different bidders. If the bids were encoded only according to amount there would appear to be no way to determine the winning bidder as the bids would not be related to a bidder, therefore, it appears that identical bids would necessarily be encoded differently to separate bidders. The code for the amount would be coded the same, but the code for the bidder would necessarily be different. Further, Franklin would inherently differentiate between bids to decide the winning bid it would open the bids and compare them to decide the winning bid. Further, Franklin appears to impose a tenderable range, zero would be the minimum, and the

amount the purchaser actually controls would be the maximum (Franklin discusses the maximum in col 5, line 65-col 6, line 7).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

MF 
April 30, 2003


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600